HIGH COURT OF UTTARANCAL AT NAINITAL

Writ Petition No.701 of 2006 (MS)

Krishna Devi w/o Late Bhalla Ram
Mohalla Shivpura Kankhal,
Tehsil and District Haridwar. .....Petitioner.

Versus

1. District Judge, Haridwar
2. Kusum w/o Sri Rubraj Singh
3. Prabhat s/o Rubraj Singh
4. Himansu s/o Sri Rubraj Singh
5. Rajni d/o Rburaj Singh
6. Seema d/o Rubraj Singh
7. Ritu d/o Rubraj Singh
8. Ved Ram s/o Kate Jevak
9. Pappu s/o Mohar Singh
10. Jogendra s/o Sri Keval
    R/o village Shahpur, Sheetalkhera Paragana Jwalapur
    Tehsil and District Haridwar. ..... Respondents

Sri Parishit Saini, Advocate for the petitioner.
Standing Counsel for the respondents.

Dated: 12.06.2006

Hon'ble Rajesh Tandon, J.

Heard the learned counsel for the parties.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondent no.1 to dispose of Misc. Civil Appeal No. 140 of 2005 Rubraj Singh vs. Smt. Krishna Devi and others in a time bound period.

Briefly stated the petitioner filed a suit for specific performance of contract in the court of Civil Judge (SD)

Haridwar, which was decreed on 26.02.2000. According to the petitioner, first appeal and second appeal against the judgment and decree dated 26.02.2000 were dismissed. The petitioner preferred an execution case before the court of Civil Judge (SD) on 23.7.2002. The respondent no.2 filed objection against the exaction under Section 47 C.P.C. claiming that he is the owner of the property, which was registered as Misc. Case No. 15 of 2003. The civil Jude (SD) dismissed the objection of the respondent vide order dated 19.10.2005. Respondent no.2 preferred an appeal against the said order before the District Judge, Haridwar, which was registered as Misc. Civil Appeal No.140 of 2005, the said appeal still pending. In the mean time Rubraj Singh also died and in his place respondent no. 2 to 7 were substituted.

The grievance of the petitioner is that respondents no. 2 to 7 are trying to change the nature of the property and are also trying to create third party interest.

In view of above, the District Judge is directed to decide the appeal within two months after obtaining certified copy of the judgment. For a period of two months parties are directed to maintain status quo.

Accordingly, the writ petition is disposed of. No order as to costs.

Dated: 12.6.2006 **Rajesh Tandon, J.**

*Dhyani